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Date of Deposit: April 12, 2004

Typed Name of Person Mailing Paper or Fee: John S. Reid

Signature: John A. Reid

PATENT APPLICATION

DOCKET NO. FO01-P03

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

INVENTORS: Stephen P. COLE et al.

CONFIRMATION NO. 1005

SERIAL NO.: 10/667,831

GROUP ART UNIT: n/a

FILING DATE: September 22, 2003

EXAMINER: n/a

TITLE: METHOD OF OBTAINING PORE PRESSURE AND FLUID SATURATION CHANGES IN SUBTERRANEAN RESERVOIRS BY FORWARD MODELING

**MAIL STOP DAC
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ARLINGTON, VA 22313-1450**

PETITION TO ACCEPT DRAWING AND ACCORD FILING DATE

SIR OR MADAM:

This Petition is in response to the March 10, 2004 "Notice Of Omitted Items In A Non-Provisional Patent Application".

Petition

The Applicants hereby petition the Commissioner accept the attached copy of Figure 5 of application serial number 10/667,831, and accord the application the original filing date of September 22, 2003. The Applicants' reasons in support of this petition are as follows:

04/19/2004 AWONDAF1 00000070 10667831

01 FC:1460

130.00 OP

S/N: 10/001,297
Case 10011080-1
Amendment "B"

1 Background and facts:

2 (1) The Applicants contend that the Office has previously acknowledged that
3 Figure 5 was included with the original application filing papers. Specifically:

4 (a) 37 C.F.R. 1.54 states, in part:

5 If a self--addressed postcard is submitted with a patent application,
6 that postcard will be provided with both the receipt date and application
7 number prior to returning it to the addressee. The application number
8 identified on such a postcard receipt is merely the preliminary assignment of
9 an application number to the application, and should not be relied upon
10 (e.g., with respect to foreign filings) as necessarily representing the
11 application number assigned to such application. See 37 CFR 1.53(b).

12 The identifying data on the postcard should include:

13 ...

14 (C) **number of pages of** specification, claims (for nonprovisional
15 applications), and **sheets of drawing**; ...

16 A return postcard should be attached to each patent application for
17 which a receipt is desired.

18 It is important that the return postcard itemize all of the components
19 of the application. If the postcard does not itemize each of the components
20 of the application, it will not serve as evidence that any component which
21 was not itemized was received by the United States Patent and Trademark
22 Office (USPTO).

23 (b) MPEP § 503 states (in part):

24 If a receipt of any item (e.g., paper or fee) filed in the USPTO is
25 desired, it may be obtained by enclosing with the paper a self-addressed
postcard specifically identifying the item. The USPTO will stamp the receipt
date on the postcard and place it in the outgoing mail. **A postcard receipt**

1 which itemizes and properly identifies the items which are being filed
2 serves as prima facie evidence of receipt in the USPTO of all the items
3 listed thereon on the date stamped thereon by the USPTO.

4 The identifying data on the postcard should be so complete as to
5 clearly identify the item for which receipt is requested. For example, the
6 postcard should identify the applicant's name, application number (if
7 known), confirmation number (if known), filing date, interference number,
8 title of the invention, etc. The postcard should also identify the type of paper
9 being filed, e.g., new application, affidavit, amendment, notice of appeal,
10 appeal brief, drawings, fees, motions, supplemental oath or declaration,
11 petition, etc., and the number of pages being submitted. If a new
12 application is being filed, all parts of the application being submitted should
13 be separately listed on the postcard, e.g., the number of pages of
14 specification (including written description, claims and abstract), number of
15 claims, number of sheets of drawings, number of pages of
16 oath/declaration, number of pages of cover sheet (provisional application).

17 The postcard receipt will not serve as prima facie evidence of receipt
18 of any item which is not adequately itemized on the postcard. For example,
19 merely listing on the postcard "a complete application" or "patent
20 application" will not serve as a proper receipt for each of the required
21 components of an application (e.g., specification (including claims),
22 drawings (if necessary), oath or declaration and the application filing fee) or
23 missing portions (e.g., pages, sheets of drawings) of an application if one of
24 the components or portion of a component is found to be missing by the
25 USPTO. Each separate component should be specifically and properly
itemized on the postcard. Furthermore, merely incorporating by reference in

1 the postcard receipt, the items listed in a transmittal letter will not serve as
2 prima facie evidence of receipt of those items.

3 The person receiving the item(s) in the USPTO will check the listing
4 on the postcard against the item(s) being filed to be sure they are properly
5 identified and that all the items listed on the postcard are presently being
6 submitted to the USPTO. If any of the items listed on the postcard are
7 not being submitted to the USPTO, those items will be crossed off and
8 the postcard initialed by the person receiving the items.

9 Upon return of a postcard receipt from the USPTO, the postcard
10 receipt should be promptly reviewed by the person who filed the items to
11 ensure that every item specifically denoted on the postcard was received by
12 the USPTO. If the postcard receipt has been annotated to indicate that a
13 particular item denoted on the postcard was not received by the USPTO,
14 the postcard receipt will not serve as prima facie evidence of receipt of that
15 item in the USPTO.

16 (emphasis added.)

17
18 A return receipt postcard, in compliance with 37 C.F.R. § 1.54(b), was submitted
19 with the original application in the present case. The postcard specifically complied with
20 37 C.F.R. § 1.54(b)(C), in that the postcard listed, "(C) [the] number of pages of
21 specification, claims (for nonprovisional applications), **and sheets of drawing**". A true
22 copy of the return receipt postcard, as received by the blow-signed attorney, is attached
23 to this Petition. As can be seen, item 6 on the back of the postcard specifically identifies,
24 "Drawings: 20 sheets, plus 2 add'l sets of color drawings (10 sheets ea.)." The front of
25 the postcard bears the stamp of the USPTO. If the Office wishes to view the original
return receipt postcard, the Applicants will be glad to provide it, provided the Office

1 warrant that the original postcard will be returned to the Applicants after review of the
2 Petition.

3 As set forth above in MPEP § 503, "A postcard receipt which itemizes and
4 properly identifies the items which are being filed serves as *prima facie* evidence of
5 receipt in the USPTO of all the items listed thereon on the date stamped thereon by the
6 USPTO." (Emphasis added.) The Applicants contend that the number of drawing
7 sheets were "properly identifie[d]" on the postcard, as described in the paragraph
8 immediately above. Accordingly, the burden is on the Office to rebut this *prima facie*
9 evidence, which the Office has not done in the March 10, 2004 "Notice Of Omitted Items
10 In A Non-Provisional Patent Application" (hereinafter, "the Notice"). The Notice merely
11 states that Figure 5 "appear[s] to have been omitted from the application." (Emphasis
12 added.) No other support is provided to rebut Applicants' *prima facie* showing (via the
13 attached copy of the postcard) that Figure 5 was not included in the original filing. The
14 Office has therefore not met the burden required to overcome a *prima facie* showing that
15 Figure 5 was filed with the original Application.

16 Further, and importantly, MPEP § 503 states:

17 "The person receiving the item(s) in the USPTO will check the listing
18 on the postcard against the item(s) being filed to be sure they are properly
19 identified and that all the items listed on the postcard are presently being
20 submitted to the USPTO. **If any of the items listed on the postcard are**
21 **not being submitted to the USPTO, those items will be crossed off and**
22 **the postcard initialed by the person receiving the items.**

23 As can be seen from the attached copy of the backside of the postcard, item 6
24 (identifying the 20 sheets of drawings filing with the original application) has not been
25 "crossed off and the postcard initialed by the person receiving the items". Accordingly,
since the listing of the drawings on the postcard was not crossed off and initialed by the

1 person at the USPTO receiving the items, it must be assumed that all 20 sheets of the
2 drawings were received by the Office.

3 For at least these reasons, the Applicants contend that Figure 5 was submitted
4 with the original application filing papers, and that the attached copy of Figure 5 should
5 be accepted, and the original filing date of September 22, 2003 accorded to the
6 application.

7
8 (2) In addition to the arguments set forth above (which the Applicants contend
9 are sufficient alone to grant this Petition), the Applicants would also like to make the
10 following additional points in favor of granting the Petition:

11 (a) The representative filing the original application (Scott K. Gallert, USPTO
12 Reg. No. 51,715) declared (as evidenced by the attached copy of the Ex Post Facto
13 Declaration Of Express Mailing) that all 20 sheets of the drawings were filed with the
14 original application.

15 (b) The representative filing the application (Scott K. Gallert) works for the
16 below-signed attorney. It is the policy of the below-signed attorney's office that when
17 any paper is filed with the USPTO, the representative filing the paper verify the sheet-
18 count of all pages being filed. Further, is the policy of the below-signed attorney's office
19 that when any paper is filed with the USPTO, an administrative assistant to the
20 representative filing the paper also verify the sheet-count of all pages being filed.

21 (c) The below signed attorney's copy of the as-filed application was received
22 from the representative (Scott K. Gallert) who filed the original application with the
23 USPTO. The below-signed attorney's copy of the application (received from the
24 representative who filed the original application) indeed includes Figure 5. It is thus
25 highly improbable that the below-signed attorney's copy of the application (as filed) could
have included Figure 5, when the original copy filed with the USPTO (from which the
below-signed attorney's copy was rendered) did not.

1 (d) Including the attached replacement copy of Figure 5 as part of the original
2 application will not constitute the addition of new matter to the application. Specifically,
3 everything shown in Fig. 5 is shown in Fig. 6, with the exception of reference numbers
4 302, 304 and 306. However, at page 8, lines 3-5 of the specification, it is stated:
5 "Reference is now made to Fig. 5. These rock physics calculations are generally used to
6 construct a data cube 300 of the three exemplary parameter types, respectively depicted
7 as **TL pore pressure 302, TL saturation 304, and TL porosity 306.**" (Emphasis
8 added.) As can be seen from Fig. 6, TL pore pressure, TL saturation, and TL porosity
9 are clearly identified in the data cube 300, which corresponds to the data cube 300 of
10 Fig. 5. It is thus inherent that reference numbers 302, 304 and 306 of Fig. 5 are
11 directed towards the axis identifiers identically provided on the data cube 300 depicted in
12 both Figs. 5 and 6. Accordingly, accepting the attached Fig. 5 as part of the original
13 application will do no violence to the policy against accepting new matter in an
14 application after the filing date, as no "new matter" is provided in Fig. 5 – Fig. 5 merely
15 incorporates what is already show in Fig. 6 and described in the specification at page 8,
16 lines 3-5.

17 For all of the reasons set forth above, the Applicants believe that the attached
18 Fig. 5 should be included as part of the original application filed with the USPTO, and
19 that the application should be accorded the filing date of September 2, 2003.

20 21 Fee

22 The required fee for this petition, per 37 C.F.R. § 1.17(h), is enclosed herewith.

23 24 Summary

25 The Applicants respectfully request that the Office accept the attached Fig. 5 as
being part of the original application, and accord the application the filing date of

1 September 22, 2003. Timely and favorable consideration of this Petition is respectfully
2 requested.
3

4 Respectfully submitted,

5 Stephen P. COLE et al.

6 Date: April 12, 2004

7 By John S. Reid
8 John S. Reid
9 Attorney and agent for Applicant
10 Reg. No. 36,369
11 Phone: (509) 534-5789
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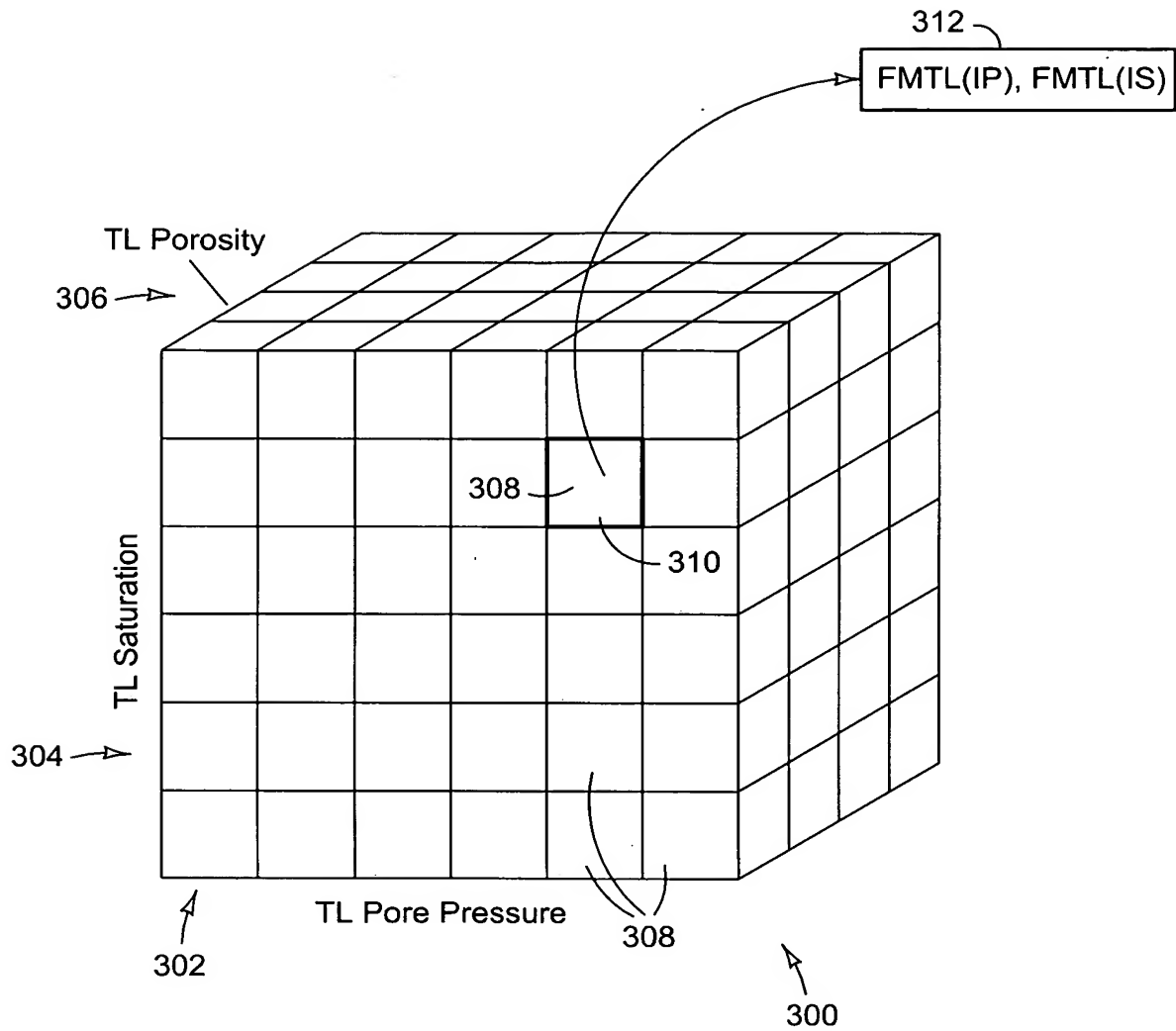


FIG. 5

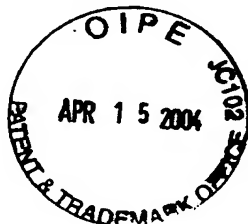


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/667,831	09/22/2003	Stephen P. Cole	FO01-P03

John S. Reid
 1926 South Valleyview Lane
 Spokane, WA 99212-0157



CONFIRMATION NO. 1005
 FORMALITIES LETTER



OC000000012061021

Date Mailed: 03/10/2004

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) 5 described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.


III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required.

A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

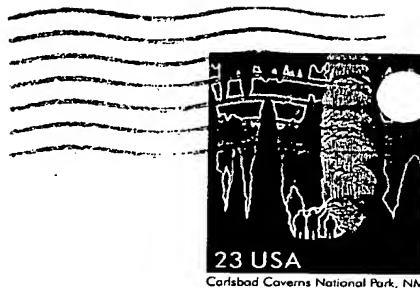
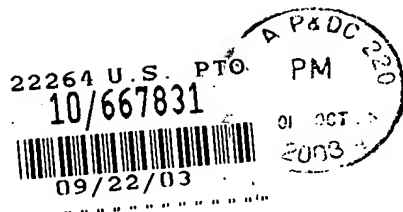
*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY



Mr. John S. Reid
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1926 South Valleyview Lane
Spokane, WA 99212-0157

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Express Mail Label No. ER064844248US

Docket No. FO01-P03

September 22, 2003

The stamp of the U.S. Patent and Trademark Office acknowledges receipt of the following papers related to U.S. Utility Patent Application titled, "Method Of Obtaining Pore Pressure And Fluid Saturation Changes In Subterranean Reservoirs By Forward Modeling" (Stephen P. Cole, et al.). Applicant: **4th Wave Imaging Corp.**

1. Return Receipt Postcard
2. Utility Patent Application Transmittal Form
3. Fee Calculation Sheet (X2)
4. Combined Declaration and Power of Attorney of Joint Inventors
5. Specification (22 pages, including cover sheet and claims 1-34)
6. Drawings: 20 sheets, plus 2 add'l sets of color drawings (10 sheets ea.)
7. Petition to Accept Color Drawings, incl. 1 set of color drawings in B&W
8. Assignment Papers, incl. Assignment Recordation Cover Sheet (6 sheets)
9. Information Disclosure Statement, incl. Form 1449, and copies of cited references.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORSHIP Stephen P. COLE, et al.
ATTORNEY'S DOCKET NO. FO01-P03
TITLE: **METHOD OF OBTAINING PORE PRESSURE AND FLUID SATURATION
CHANGES IN SUBTERRANEAN RESERVOIRS BY FORWARD MODELING**

EX POST DECLARATION OF EXPRESS MAILING

I hereby declare that I have deposited the below-listed papers with the United States Postal Service "Express Mail Post Office to Addressee" service, addressed and posted as indicated below, in compliance with 37 CFR 1.10. The Express Mail label No. has been placed on one or more of the papers listed.

ER064844248US

Express Mail Number: ER064844248US
Date of Deposit: 9-22-2003
Time of Deposit: 9:08 AM/PM
Deposited By: ☒ Delivery to Postal Employee
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Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450



Place of Deposit:

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Spokane, Washington 99202
Last Scheduled Drop Box Pickup: 5:00 pm
- ☐ U.S. Post Office Rosewood Branch
6325 N. Monroe St.
Spokane, WA 99208
Last Scheduled Drop Box Pickup: 5:30 pm

Listing Of Items Enclosed In Mailing:

1. Return Receipt Postcard
2. Combined Utility Patent Application Transmittal Form
3. Fee Calculation Sheet
4. Declaration and (separate) Power of Attorney From Inventors
5. Specification (22 Pages, including cover sheet and claims 1-34)
6. Drawings (20 sheets), plus 2 add'l Sets of Color Drawings (10 sheets each)
7. Petition to Accept Color Drawings, incl. 1 Set of Color Drawings in B&W
8. Assignment Papers, including Assignment Recordation Cover Sheet (6 sheets)
9. Information Disclosure Statement, incl. Form 1449 and Copy of Cited References

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statement may jeopardize the validity of the application or any patent issued therefrom.

Dated this 22 Day of September, 2003.

Dated at Spokane, Washington

Scott K. Gallert
Scott K. Gallert



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION SERIAL NO. 10/667,831
FILING DATE September 22, 2003
ART UNIT n/a
EXAMINER n/a
APPLICANT Stephen P. COLE et al.
CONFIRMATION NO. 1005
ATTORNEY'S DOCKET NO. FO01-P03
TITLE: **METHOD OF OBTAINING PORE PRESSURE AND FLUID SATURATION
CHANGES IN SUBTERRANEAN RESERVOIRS BY FORWARD MODELING**

PTO TRANSMITTAL LETTER AND CERTIFICATE OF MAILING

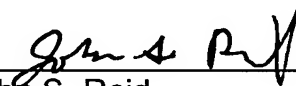
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P.O. Box 1450
Alexandria, VA 22313-1450

From: John S. Reid
1926 South Valleyview Lane
Spokane, WA 99212-0157
Telephone: (509) 534-5789
Fax: (509) 532-0351

Enclosed are:

1. Return Receipt Postcard;
2. Check for \$130.00;
3. Transmittal Letter and Certificate of Mailing;
4. Petition to accept drawing and accord filing date (8 pages);
5. Copy of Figure 5, as originally filed;
6. Copy of USPTO March 10, 2004 "Notice Of Omitted Items In A Non-Provisional Patent Application" (2 sheets);
7. Copy of return receipt postcard as received by applicant from the USPTO (2 sheets); and
8. Copy of Ex Post Facto Declaration of Express Mailing for original application.

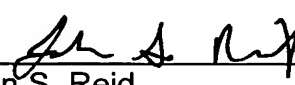
Date: April 12, 2004

By: 
John S. Reid
Reg. No. 36,369

CERTIFICATE OF MAILING

I hereby certify the items listed above as enclosed are being deposited with the U.S. Postal Service as first class mail in an envelope addressed to The Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the below-indicated date.

Date: April 12, 2004

By: 
John S. Reid
Reg. No. 36,369